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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/660,311	09/11/2003	A. J. Corso	CORA/0002	5409

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EXAMINER

GRILES, BETHANY L

ART UNIT PAPER NUMBER

3643

DATE MAILED: 08/06/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/660,311

Applicant(s)

CORSO ET AL.

Examiner

Bethany L. Griles

Art Unit

3643

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 May 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5,7 and 9-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5,7,9-15 and 17-28 is/are rejected.
- 7) ☒ Claim(s) 16 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to claims 1-8, 9-27 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-4, 7, 10, 11, 14, 17, 20, 21, 24, 25,26, and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Benavidez (US6014833) in view of Wallace (US6269587).

1. Regarding claim 1, Benavidez discloses a buoyant board-like support member 10, a fish container a fish container (5 gallon live bait bucket, unnumbered, which passes through element 20 of the board-like support member 10, and a fish bait container 40 secured to the support member.
2. Benavidez does not disclose that the support member 10 has at least one gripping aperture provided therein being sized and shaped for hand gripping.
3. Wallace discloses a "handle" (figure 1) sized and shaped for hand gripping.

4. It would have been obvious to one of ordinary skill in the art at the time the invention was made to apply the teaching of Wallace of a handle to the fishing accessory of Benavidez in order to make the device easier to handle and maneuver.
5. Regarding claim 2, Benavidez discloses a cleat (see attachment point of element 65 to element 10 in figure 1) mounted thereon for tethering to a user (col 4, lines 38-41).
6. Regarding claim 3, Benavidez discloses that the support member 10 has a securing aperture therethrough for tethering to a user, as there must be an aperture at the connection point between elements 65 and 10 in order for the securing bolt or cleat to pass through the body member 10.
7. Regarding claim 4, Benavidez discloses that the support member is filled with an expanded polystyrene material (col 3, lines 38-42).
8. Regarding claim 7, Benavidez discloses four gripping indentations as described above (two indentations between the bucket and element 31, one on each side of the support member), and two gripping indentations between the 5 gallon bucket and the end of the support member opposite element 31; for a total of four gripping indentations.
9. Regarding claim 10, Benavidez discloses a tether 65, 66 at or near one of the ends of the support member 10 being adapted for being secured to a user.
10. Regarding claim 11, Benavidez discloses that the support member is equipped for measuring the length of a fish (col 4, lines 27-30).
11. Regarding claim 14, Benavidez discloses a utility bar 40 having a plurality of storage apertures for receiving fishing gear (col 4, lines 8-11).

12. Regarding claim 17, Benavidez discloses that the support member 10 has a fish holding aperture 20 sized and shaped to receive the fish container (5 gallon bucket) therethrough whereby a portion of the fish container extends downwardly beneath the support member (see figure 1).

13. Regarding claim 20, Benavidez discloses that the support member 10 has a bait holding aperture 20 sized and shaped to receive the first bait container therethrough whereby a portion of the first bait container extends downwardly beneath the support member (see figure 1).

14. Regarding claim 21, Benavidez discloses that the first bait container (5 gallon bucket) is adapted for holding live bait (col 3, line 54).

15. Regarding claim 24, Benavidez discloses a a buoyant board-like support member 10, a fish container (unnumbered), a first bait container 18 second bait container 40 secured to the support member 10.

16. Regarding claims 25 and 28, Benavidez discloses that the second bait container 18 is adapted for holding live bait, or live fish, such as minnows, and the first container 40 is adapted to hold artificial bait (col 4, line 10).

17. Regarding claim 26, Benavidez discloses that the second bait container 40 is secured to the upper surface of the support member 10 and includes at least one plastic box having an open lid and a plurality of bait-holding compartments (col 4, lines 8-12).

Claim Rejections - 35 USC § 103

18. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

19. Claims 5, 9, 23 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Benavidez (US6014833).

20. Regarding claim 5, Benavidez does not disclose that the support member 10 has a fluorescent outer surface.

21. It would have been obvious to one of ordinary skill in the art at the time the invention was made to make the outer portion of the support member of a fluorescent color, as the choice of any bright color would be dictated by price, availability of materials, and a desire to enhance the appearance of the object. There is no criticality given to the presence of fluorescent material in the specification, and any highly visible color would be equally effective in this instance.

22. Regarding claim 9, Benavidez discloses at least one gripping aperture.

23. Benavidez does not disclose four gripping apertures.

24. It would have been obvious to one of ordinary skill in the art at the time the invention was made to include four gripping apertures, as a mere duplication of parts does not impart patentable weight when a feature has already been disclosed.

25. Regarding claim 23, Benavidez discloses the first bait container (5 gallon bucket, unnumbered).
26. Benavidez does not disclose that the bucket is made of plastic.
27. It would have been obvious to one of ordinary skill in the art at the time the invention was made to make the bait container of Benavidez out of plastic (in this case a 5 gallon bucket) as it is old and notoriously well known for 5 gallon buckets to be made of plastic.
28. Regarding claim 27, Benevidez discloses a second bait container 40.
29. Benavidez does not disclose a plurality of stacked plastic boxes having an openable lid and a plurality of bait holding compartments.
30. It would have been obvious to one of ordinary skill in the art at the time the invention was made to use a plurality of the disclosed boxes, as a mere duplication of parts does not impart patentable weight when a feature has already been disclosed.
31. Claims 12, 13, 14, and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Benavidez in view of Reichek (US 5163694).
32. Regarding claims 12 and 13, Benavidez substantially discloses the invention as described in claim 1, and further discloses a plurality of gear containers 68, 69 as described in claim 12 for supporting elongated fishing gear.
33. Benevidez does not disclose a plurality of upright gear containers.
34. Reichek discloses a plurality of upright containers (16, 18, 22, 38).

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35. It would have been obvious to one of ordinary skill in the art at the time the invention was made to apply the teaching of Reichek of upright containers to the device of Benevidez in order to make the containers more easily accessible to the user.

36. Regarding claim 14, Benavidez discloses a utility bar 40 having a plurality of storage apertures for receiving fishing gear (col 4, lines 8-11).

37. Regarding claim 15, Benavidez discloses at least four gear containers 68, 69, 20,

38. Benavidez does not disclose that the containers extend upwardly from the upper surface of the support member 10, or that the utility bar 40 is connected across the 3 gear containers at an elevation above the upper surface of the support member 10.

39. Reichek discloses that the containers 16, 18, 22, 38 are at an elevation above the upper surface of the support member (figure 1).

40. It would have been obvious to one of ordinary skill in the art at the time the invention was made to apply the teaching of Reichek to the invention of Benevidez in order to make the tackle, bait, or other stored items more accessible to the angler.

41. Claims 18, 19, and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Benavidez in view of Wallace (US 6269587).

42. Regarding claim 18, Benavidez discloses that the fish container (5 gallon bucket, unnumbered) is generally tubular shaped and permits submergence of fish disposed therein.

43. Benavidez does not disclose that the fish container is a net.

44. Wallace discloses a net 58 is a "live fish bag" which is submerged below the base member 22.

45. It would have been obvious to one of ordinary skill in the art at the time the invention was made to apply the teaching of Wallace to the invention of Benevidez in order to make the entire unit weigh less, and to make the unit more collapsible for transport.

46. Regarding claim 19, Benavidez discloses the fish container.

47. Benavidez does not disclose that the fish container has a mouth which is adjustable between an opened and a closed position.

48. Wallace discloses a net 58 with a mouth 56 adjustable between an opened and a closed position.

49. It would have been obvious to one of ordinary skill in the art at the time the invention was made to apply the teaching of Wallace to the invention of Benavidez to prevent fish (bait or otherwise) from escaping through the top of the fish container.

50. Regarding claim 22, Benavidez discloses the substantially cylindrical fish container (5 gallon bucket, unnumbered).

51. Benavidez does not disclose that the fish container has an openable lid.

52. Wallace discloses a net 58 with a mouth 56 adjustable between an opened and a closed position.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to apply the teaching of Wallace to the invention of Benavidez to prevent fish (bait or otherwise) from escaping through the top of the fish container.

Conclusion

53. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bethany L. Griles whose telephone number is 703.305.1839. The examiner can normally be reached on Monday through Friday 8:00 am - 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter M. Poon can be reached on 703.308.2574. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

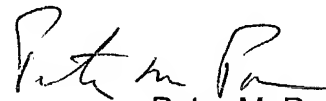
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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



blg

Bethany L. Griles
Examiner
Art Unit 3643



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8/4/04